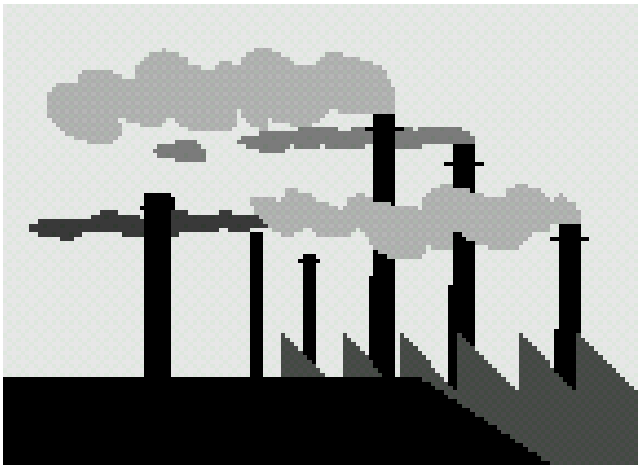

Mercury: The Facts

The Threat:

Mercury is a known neurotoxin of great concern to public health. In February 2004, a new EPA analysis found about 630,000 children are born in the United States each year with blood mercury levels above what EPA considers safe. According to the National Research Council, effects from prenatal exposure include mental retardation, cerebral palsy, deafness, and blindness. Adult exposure can produce sensory and motor impairment, such as slurred speech, blurred vision, tremors and memory loss.

Nearly every state has issued warnings about eating mercury-contaminated fish. Seventeen states have mercury warnings for every inland water body. Eleven states have issued warnings for mercury in their coastal waters. In December 2003, EPA and FDA issued an unprecedented joint warning instructing children and women of child bearing age to limit their consumption of certain types of fish with high levels of mercury.

America's 41 million recreational fishermen must contend with mercury contamination in 12 million acres of lakes, estuaries and wetlands - 30 percent of the national total - and 473,000 miles of streams, rivers and coastlines.

Finally, mercury also threatens loons, mallard ducks, and mammals. Recent evidence shows the threat of death, reduced reproductive success, liver damage, kidney damage, and neurobehavioral effects.

The Regulation:

The Clean Air Act Amendments of 1990 required EPA to study mercury emissions

to determine if they should be regulated. After completing a comprehensive study, EPA entered into a settlement agreement in 1998 to require plants to control mercury emissions by 2008. On December 15, 2003, the EPA proposed a Utility Mercury Reductions Rule that fails to meet the requirements of the Clean Air Act and the 1998 settlement agreement.

EPA proposes to regulate mercury emissions under an inappropriate section of the Clean Air Act. Mercury, a hazardous air pollutant of great concern, should be regulated under the strict hazardous air pollutants section of the Clean Air Act (Section 112), which requires EPA to issue a Maximum Achievable Control Technology (MACT) standard. EPA's proposal to regulate mercury under "Section 111: Standards of Performance for New Stationary Permits," would permit more pollution for years longer than the law allows.

Under the 1998 settlement agreement, power plants would have to control mercury emissions by 2008. The EPA proposal would postpone regulation until 2018 and delay full 69 percent reductions to an undetermined date beyond 2025, according to EPA's own modeling.

Full scale testing has demonstrated that reducing mercury emissions is possible at reasonable cost. Full scale testing of established technology has reduced its emissions by more than 80 percent. Furthermore, the EPA Office of Research and Development's report concluded that coal fired power plants can reduce mercury emissions between 60 and 90 percent simply by optimizing controls for nitrogen oxides and sulfur dioxide. Other industries, like hospital and city garbage incinerators, have been required to meet the 90 percent standard for over a decade.

The EPA's Flawed Process:

EPA's actions on this rule have been inappropriate and insufficient. EPA allowed industry to write significant portions of the proposal. EPA did not fully analyze the impacts of its proposal as required under Executive Order 12866. EPA abandoned the public process that included stakeholders and refused to analyze the regulatory options recommended by its own Stakeholder Advisory Group. The White House revised portions of the rule to downplay the mercury threat. The EPA Inspector General has opened an investigation looking into how EPA developed its proposal.